THE BOMBAY SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS (SUPPLEMENTARY) ACT, 1954.

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BOMBAY ACT No. VIII OF 1954.[1]

[THE BOMBAY SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS (SUPPLEMENTARY) ACT, 1954.]

[*10th February 1954*]

An Act to supplement the provisions of the Bombay Separation of Judicial and Executive Functions Act, 1951.

Bom. XXIII of 1951.

WHEREAS it is expedient to supplement the provisions of the Bombay Separation of Judicial and Executive Functions Act, 1951; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Separation of Judicial and Executive Functions (Supplementary) Act, 1954.

Amendments to enactments.

2. The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Bombay and the Bombay Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, by-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

Saving.

4. (*1*) Save as provided in this section, nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant enactments as amended by this Act.

(*2*) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant enactments as amended by this Act, stand transferred to the Magistrate or Court having

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, Page 656.

jurisdiction under the provisions of the relevant enactments as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been originally instituted before such Magistrate or in such Court.

SCHEDULE.

(*See* section 2.)

PART I—*The Code of Criminal Procedure, 1898.*

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898.	1. In section 10— (*i*) in sub-section (*2*)— (*a*) for the words "an Additional District Magistrate" the words "one or more Additional District Magistrates" shall be substituted; and (*b*) for the words "such Additional District Magistrate" the words "an Additional District Magistrate" shall be substituted; (*ii*) after sub-section (*2*) the following sub-section shall be inserted, namely:— "(*3*) For the purposes of sub-section (*3*) of section 192, section 406B and sub-section (*3A*) of section 528, an Additional District Magistrate shall be deemed to be subordinate to the District Magistrate." 2. In sub-section (*2*) of section 13, for the words "any Sub-Divisional Magistrate" the words "one or more Sub-Divisional Magistrates" and for the words "any Taluka Magistrate" the words "one or more Taluka Magistrates" shall be substituted. 3. For section 17A, the following shall be substituted, namely:— "17A. *Subordination of Executive Magistrates.*—(*1*) All Executive Magistrates appointed under section 13 or 14 shall be subordinate to the District Magistrate; and every Taluka Magistrate shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate. (*2*) The District Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among the magistrates subordinate to him and as to allocation of business to an Additional District Magistrate." 4. In section 192, after sub-section (*2*), the following shall be inserted, namely:— "(*3*) Any District Magistrate or Sub-Divisional Magistrate may transfer any case of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him and such Magistrate may dispose of the case accordingly."

PART I—*The Code of Criminal Procedure, 1898*—contd.

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
			5. After section 406A, the following section shall be inserted, namely :— "406B. *Transfer of appeals to Additional District Magistrates.*—The District Magistrate may transfer any appeal presented to him under section 406 or 406A to an Additional District Magistrate, and such Additional District Magistrate may hear and dispose of the appeal." 6. In section 505, in sub-section (*1*), for the words "Magistrate of the First class" the words "Magistrate subordinate to him" shall be substituted. 7. In section 528, after sub-section (*3*), the following sub-section shall be inserted, namely :— "(*3A*) Where the District Magistrate authorised under sub-section (*3*) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same."

PART II—*Other Central Acts.*

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
1867	XXV	The Press and Registration of Books Act, 1867.	In section 1, the words "'Magistrate' means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police" shall be deleted.
1886	XI	The Indian Tramways Act, 1886.	1 In section 37, for the words "a Magistrate" wherever they occur, the words "an Executive Magistrate" shall be substituted; 2 In section 38, for the words "a Magistrate" the words "an Executive Magistrate" shall be substituted.
1910	IX	The Indian Electricity Act, 1910.	1 In sub-section (*3*) of section 18, for the words "a Magistrate of the first class" the words "the District Magistrate" shall be substituted; 2 In section 54, for the words "a Magistrate" the words "an Executive Magistrate" shall be substituted.
1912	IV	The Indian Lunacy Act, 1912.	In section 3, for clause (6) the following shall be substituted, namely :— "(6) 'Magistrate' means in Greater Bombay, Presidency Magistrate and elsewhere, a Magistrate of the first class".

PART II—*Other Central Acts*—contd.

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
1920	XXXIII.	The Identification of Prisoners Act, 1920.	In section 5, in the first proviso, for the words "except by a Magistrate of the first class" the words "except by the District Magistrate, a Sub-Divisional Magistrate, a Magistrate of the first class" shall be substituted.
1925	XII	The Cotton Ginning and Pressing Factories Act, 1925.	In sub-section (*1*) of section 11, for the words beginning with the words "the District Magistrate" and ending with the words "State Government" the words "the Commissioner of Police in Greater Bombay and the District Magistrate, elsewhere" shall be substituted.
1936	IV	The Payment of Wages Act, 1936.	In sub-section (*1*) of section 15, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.
1948	XI	The Minimum Wages Act, 1948.	In sub-section (*1*) of section 20, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.
1951	LVI	The Press (Objectionable Matter) Act, 1951.	In sub-section (*2*) of section 6, for the words "any Magistrate" the words "any Judicial Magistrate" shall be substituted.

PART III—*Bombay Acts.*

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
1888	III	The Bombay Municipal Corporation Act.	In sub-section (*1*) of section 379A, for the words "Presidency Magistrate" the words "Presidency Magistrate specially empowered by the State Government" shall be substituted.
1892	I	The Bombay District Vaccination Act, 1892.	In section 23, in sub-section (*1*), for the words "a Magistrate" the words "a Taluka Magistrate" shall be substituted.
1901	III	The Bombay District Municipal Act, 1901.	1 In sub-section (*1*) of section 86,— (*i*) for the words "Magistrate or Bench of Magistrates" the words "Judicial Magistrates or Bench of such Magistrates" shall be substituted; and (*ii*) for the words "State Government or of the District Magistrate" the words "Sessions Judge" shall be substituted. 2 In sub-section (*3*) of section 145, for the words "a Magistrate exercising not less than second class powers" the words "a Taluka Magistrate" shall be substituted. 3 In sub-section (*1*) of section 148, for the words "a Magistrate of the first class" the words "a Taluka Magistrate" shall be substituted.

PART III—*Bombay Acts*—contd.

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
			4 In section 153, for the words "Magistrate of the first class" the words "Executive Magistrate" shall be substituted.
			5 In section 158, for the words "any Magistrate" the words "any Executive Magistrate" shall be substituted.
1923	VI	The Bombay Local Boards Act, 1923.	In section 113,— (*i*) for the words "Magistrate or Bench of Magistrates" the words "Judicial Magistrate or Bench of such Magistrates" shall be substituted, and (*ii*) for the words "State Government or of the District Magistrate" the words "Sessions Judge" shall be substituted.
1925	XVIII	The Bombay Municipal Boroughs Act, 1925.	1 In sub-section (*1*) of section 110,— (*i*) for the words "Magistrate or Bench of Magistrates" the words "Judicial Magistrate or Bench of such Magistrates" shall be substituted; and (*ii*) for the words "District Magistrate" the words "Session Judge" shall be substituted.
			2 In sub-section (*3*) of section 180, for the words "a Magistrate exercising not less than second class powers" the words "a Taluka Magistrate" shall be substituted.
			3 In sub-section (*1*) of section 183, for the words "a Magistrate of the first class" the words "a Taluka Magistrate" shall be substituted.
			4 In section 189, for the words "Magistrate of the first class" the words "Executive Magistrate" shall be substituted.
			5 In section 196, for the words "any Magistrate" the words "any Executive Magistrate" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In sub-section (*3*) of section 3, the words "or Sub-Divisional Magistrate" shall be deleted.
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 11,— (*i*) for sub-section (*1*) the following shall be substituted, namely :— "(1) Where an order of restriction is made against any person, the court or Magistrate making such order or the court or Magistrate to whom an appeal would lie against such order under section 13 may, at any time, on its or his own motion or on an application from such person and for sufficient reasons to be recorded in writing, make an order cancelling or modifying the order of restriction"; (*ii*) sub-section (*3*) shall be deleted.

PART III—*Bombay Acts*—concld.

Year.	Number.	Short title.	Extent of amendment.
1	2	3	4
1948	... LXXI ...	The Bombay Children Act, 1948.	In section 38, for the words beginning with the word "elsewhere" and ending with the words "is situated" the following shall be substituted, namely:— "elsewhere of the court which passes any order under this Act in respect of the child".
1949	... LIX ...	The Bombay Provincial Municipal Corporations Act, 1949.	1 In sub-section (*3*) of section 122, for the words beginning with the words "the Chief Presidency Magistrate" and ending with the words "First Class" the words "the Presidency Magistrate specially empowered by the State Government, in Greater Bombay, and elsewhere, the District Magistrate" shall be substituted. 2 In sub-section (*1*) of section 307, for the words "a Magistrate of the First Class" the words "the District Magistrate" shall be substituted. In sub-section (*2*) of section 433, for the words "nearest Magistrate" the words "nearest Judicial Magistrate" shall be substituted.